

Meeting of 1999-10-26 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 26, 1999 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
John Vincent, City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 6:15 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
Richard Williams, Ward Two
Glenn Devine, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Stanley Haywood, Ward Seven
Randy Warren, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF OCTOBER 12, 1999 AND SPECIAL MEETING OF OCTOBER 20, 1999.

MOVED by Haywood, SECOND by Smith, for approval of the Minutes of October 12, 1999. AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

MOVED by Smith, SECOND by Haywood, for approval of the Minutes of October 20, 1999. AYE: Warren, Smith, Williams, Shanklin, Beller, Haywood. NAY: None. ABSTAIN: Devine, Purcell. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

Mayor Powell suggested items be considered in a different order based on the number of persons present in the audience for particular items; Council agreed.

BUSINESS ITEMS:

4. Hold a public hearing and consider an ordinance changing the zoning classification from R-1 (Single-Family Dwelling District) to R-3 (Multiple-Family Dwelling District) zoning classification located at 3510 SW J Avenue. Exhibits: Ordinance No. 99-36; Location Map; Application; Map Illustrating Protest Petition; LMAPC Minutes. (Petition Opposed to Rezoning, and Petition Supporting Rezoning both on file in City Clerk's Office)

Bob Bigham, City Planner, reviewed background information that this is a 5.095 acre tract owned by Quality Management, Inc. He pointed out the location on the view graph map. LMAPC reviewed the request on September 22 and by a five to zero vote recommended approval of the rezoning request. Notice of public hearing was mailed to 38 property owners within 300 feet; a petition against the rezoning was received signed by 88 persons. Another petition in support of the rezoning was received and it contained 123 signatures. A petition was also received signed by 19 teachers at Cleveland Elementary and a letter from Barry Beauchamp, Superintendent-Elect of Lawton Public Schools, in support of the request. Bigham presented a slide showing a representation from the petition in opposition to the rezoning request.

PUBLIC HEARING OPENED.

Dennis Blackburn, 930 SW 36th Street, said he was not sure how this would effect the property values or property taxes in the area, and there was a concern about a limit on the number of children that could be allowed in the development center and control of them. Mayor Powell said he felt that would be addressed.

Rick Kerr, Quality Management, said he was requesting the rezoning. He said they are currently licensed for 150 children. Kerr said for control, they are running an eight to ten foot fence around the entire five acre tract. He said there are plans to possibly expand the program but there will never be more than 300 children at one time due to DHS licensing and the size of the property. Kerr said they looked for a long time for a location that would meet the needs of school age children between five and 12 years of age. He said most in that age group do not want to go back into a day care setting.

Kerr said they had done a lot of research as to what would benefit the community. He said the opposition had stated there would be increased traffic flow but the City did a study of the traffic that was there with the church, and what traffic there would be with a multi-family unit development of 25 townhouses. Kerr said the townhouses would increase traffic by four or five times more than the proposed facility. He said there was initial concern that this would be a teen center and would be operated all hours of the day and night and weekends, and that is not what is proposed. Kerr said they plan to take care of children between the ages of 5 and 12 and would be open from 5:30 a.m. to 8:30 p.m. Most of the traffic flow will be busses and traffic flow will not be a problem as a result.

Williams asked if the facility would be open on weekends. Kerr said no, it will be operated Monday through Friday.

Jeannie Aldridge, 416 NW 29th Street, Principal of Cleveland Elementary School, said they have over 20 students that use the club house and it has been a positive influence. She said they work with them in cooperation and the facility has allowed the children to use the gym for a basketball program, which would not otherwise be available in a convenient location. Aldridge said the facility will also allow them to have a Boy Scout group and they are working cooperatively with Cleveland School.

Martha McCartney, Executive Director of School Age Programming for Playcare, said they have four other programs of this nature in the public schools and the club houses are set up as center based after school programs. She said the children are given the options of having a snack, going out to play, watching movies or doing homework; there are different rooms for the children to go in so it is more like a home setting. McCartney said the first week they anticipated having 35 students and hired staff on that basis and they are now turning children away due to the 150 child limit on their licensing. She said this speaks volumes as far as the quality of the program and the need for it.

Loretta Davis, 3401 Crestview Drive, said she had lived in the neighborhood for 40 years and they need a program like this for the children.

Josephine Burnett, 931 SW 34th Street, said she was opposed to the day care and had been since the sign went up that it was coming in. She said most of the people she talked to in the neighborhood were opposed and she did not know where they got 100 signatures on a petition of support. Burnett said she was told the signatures had to be from people who lived in the area by the City Clerk's Office and by her councilman so that was the area she covered. She said there were many empty houses in the neighborhood and there had already been a problem with trash on the west side of the parking lot at this facility where the animals had torn the trash open.

Burnett said it was nice for the kids to have a place to play but the residents live in the neighborhood; she asked how the members would like to go on their patios and listen to kids screaming and yelling like they were next to a ball park. She pointed out that many who signed the petition of support did not live in the area. Burnett questioned how this would affect property values and property taxes for nearby residents, and said traffic is a problem, as well as the numbers of children mentioned.

Mayor Powell asked if traffic was a problem even with the children riding the busses. Burnett said yes, and some parents pick up and deliver the kids before and after school.

Keith Pettras, 918 SW 35th Street, said he supported the rezoning and lived in the area. He said he signed the petition of support and had not been contacted by Ms. Burnett concerning the opposition. Pettras said the site contains five acres and it would be better to have the children in a controlled environment such as this. He said traffic on J increased because the street was paved and the intersection of 27th and J was dangerous due to traffic associated with the college, but it was not because of the club house. Pettras commended the care provided by the club house and the impact it has on children.

PUBLIC HEARING CLOSED.

Devine said he had worked with Ms. Burnett on this and that he would not be able to support the rezoning due to the calls he had received from residents who were not in favor of the request.

Purcell asked that the map be placed on the view graph showing the protest and this was done. He asked if the owners of the lots shown in white had signed a petition supporting the request. Bigham said they did not prepare a map in that regard but the map on the screen reflected, in orange, those who had signed the petition of protest.

MOVED by Beller, SECOND by Williams, to approve Ordinance No. 99-36 changing the zoning from R-1 (Single Family Dwelling District) to R-3 (Multiple Family Dwelling District) at 3510 SW J Avenue, waive reading of the ordinance, reading the title only.

Shanklin said residents had expressed concern about property taxes and property value and that he had a similar situation on Fort Sill Boulevard and could not believe this would affect either situation. He said the children had to have some place to go and perhaps some of the vacant houses may be occupied since this is being offered.

(Title read by Clerk) Ordinance No. 99-36

An ordinance changing the zoning classification of the tract of land which is hereinafter more particularly described in Section One (1) hereof from the existing classification of R-1 (Single-Family Dwelling District) to R-3 (Multi-Family Dwelling District) zoning classification; authorizing changes to be made upon the Official Zoning Map in accordance with this ordinance.

VOTE ON MOTION: AYE: Smith, Williams, Purcell, Shanklin, Beller, Haywood, Warren. NAY: Devine. MOTION CARRIED.

5. Consider the merits of amending the 2020 Land Use Plan from Residential-Single Family and Duplex to Commercial and Office located at 3422 and 3428 NW Cache Road and make a recommendation to the Lawton Metropolitan Area Planning Commission. Exhibits: Location Map; Application for Amendment to 2020 Land Use Plan; Site Plan; Analysis; Draft LMAPC Minutes; (Petition on file in City Clerk's Office); Map Illustrating Protest Within 300 Foot Area; Flowchart for Amendments to the Land Use Plan and Rezoning.

Bob Bigham, Planning Director, said this is the first request under the new procedure to come before the Council on amendment to the Land Use Plan, and the action is to make a recommendation or report back to the LMAPC on the merits of amending the Land Use Plan. This action will be considered at the LMAPC meeting tomorrow, provided Council gives a report tonight. LMAPC reviewed the request on October 13 and by a six to one vote found the applicant had not demonstrated a need to amend the Land Use Plan. Bigham pointed out the new procedure for amendment to the Land Use Plan in the agenda folder.

Bigham said the LMAPC did not get the appropriate six votes so it was forwarded to Council for recommendation and LMAPC will review Council's report tomorrow and make an appropriate motion. He said this tract has a long history where five requests for rezoning were submitted in past years. Bigham said it is not applicable for tonight but the City Clerk's Office received a protest petition from persons within the 300 feet notification area containing 61% protest; a slide was presented showing the protest from the surrounding residents. He said at a later date, adoption of the ordinance to rezone the area would require a 3/4ths vote of Council.

Williams asked if the action tonight is for Council to consider a change to the Land Use Plan. Bigham said no, the action for Council tonight is to make a recommendation to LMAPC on the merits of changing the Plan to commercial. Williams asked if the Land Use Plan is reviewed every five years and if it is to be reviewed next year. Bigham said yes and he hoped to have something to present by the end of next year.

Purcell asked if there was discussion at LMAPC on changing the Land Use Plan for not only the two lots shown, but for all five lots along Cache Road. Bigham said he did not believe it came up. Devine asked what would be needed to be able to bring up all five pieces of property, instead of doing it by spot zoning. Bigham said it could be initiated by an applicant where someone would apply to amend the Land Use Plan for all five lots, or by an administrative action through direction by the Council to bring it forward. Bigham said the owners of these two lots initiated this action and they do not own or have an interest in the other three lots. Devine said it could avoid future requests if it was considered for the entire block at once. Bigham said the owners of the other lots may not be in agreement with such a request and that could be a subject of discussion at a public hearing.

Purcell asked if it would be appropriate to ask the LMAPC to hold a hearing to change the Land Use Plan on all five lots along Cache Road. Bigham said the notice procedure would have to be done again, and this particular request would be put on hold, but it could be done. Williams asked if something similar was considered about a year ago for both the north and south sides of Cache Road. Bigham said this request has been before Council in the past. Williams said Council is not considering the rezoning tonight, but only a recommendation on changing the plan.

Beller asked if this were to be brought back, would it take weeks or months to do so. Bigham said if Council makes a recommendation to LMAPC tonight, it will be presented to LMAPC tomorrow and the Land Use Plan amendment and rezoning will be heard by Council at the second meeting in November. Bigham said if the suggestion to include more lots is approved, it would be December or January before it could be heard. Williams said the Land Use Plan will be reviewed next year during the normal course of business.

Purcell said he could support the amendment but felt if the Plan were changed, it would be better to include all five lots and that it would be better to consider a larger area in Land Use Plan amendment proposals.

Mayor Powell asked about the owners of those other three lots and consideration of their wishes for their property. Purcell said it would not change the use of their property, only the Plan. Shanklin said it would disenfranchise people from doing what they wanted to do with their property and this request tonight should not be tabled.

Bigham said when staff receives an application for amendment to the Land Use Plan, it is analyzed as to the impact it would have. He said we would not have a site plan for the five lots and we would not know what type of development would be proposed to be able to do a full analysis.

Purcell said site plans would not be available when the 2025 Land Use Plan is proposed and it is a document to use for the future, as opposed to current development, to allow the public to see what may be proposed for the surrounding area when they purchase property. Shanklin encouraged Council to take an interest when the 2025 Land Use Plan is presented and

not just accept it without question.

Shanklin read from a portion of the LMAPC minutes concerning character of the district and buildings and the amount of commercial property available and census population figures, and said he did not understand what that had to do with someone wanting to do something with this property.

Beller said one statement usually made is that there is too much commercial property and that he felt the market place should play a role in making that determination. He said another thought was that when you over-zone for commercial, you cause a devaluation of property and he did not feel it was the City's responsibility to attempt to control property values. Beller said just because commercial land is available on Flower Mound Road does not mean that a property owner on Cache Road should not be able to have his property zoned for commercial use, and staff compares Lawton to Dallas or New York and those are not logical benchmarks.

Smith said one of the main criteria in deciding issues involving the Land Use Plan is the transitional state of the neighborhood, and this neighborhood remains viable. He said he understood it would go commercial in the future but did not feel that should be done at this point in time.

Mayor Powell invited public comment and Council agreed.

Bill Fraser, 3419 NW Oak, said he lives within 300 feet of the property and that his property was adjacent to the tract in question. He said he was present in opposition to a change in the Land Use Plan. Fraser said 20 homes are directly involved, and of those 20, 18 are owner occupied and many have been for 20-30 years, and the Plan says it is a residential area, as well as the plat restrictions. He said we are here because of two lots someone decided they wanted to rezone and asked what happens to the plat and the Plan and the other 17 people opposed that live directly in this block. He said they had been going through this for ten years and nothing has changed; traffic on Cache Road has remained constant and traffic may have increased on 38th Street since Rogers Lane was built, but the residents enjoy living in their homes.

Fraser asked if the members have looked at the neighborhood and if they felt the homes were a blight or eyesore, and if it would be better to have a McDonald's on the corner than a home. He said if the area went commercial, he hoped it was not within his life time because he enjoyed where he lived. He said he could not replace his home and did not want to relocate and should not have to do so to benefit commercial activity. Fraser said there is a McDonald's a block to the west and asked if there would be a benefit by moving it one block. He said he was adamantly opposed to the request to amend the Land Use Plan and to rezone the property for commercial use.

Manville Redman, attorney, 513 C Avenue, said he was representing the property owners in opposition to the change to the Land Use Plan and rezoning. He asked those in the audience opposed to the change to stand and approximately 40 people stood. Redman said many of the residents have lived in the area for 30 years but there were also new property owners who knew nothing about a rezoning request for 38th and Cache Road. He said Mr. and Mrs. Santiago purchased property immediately south of this property recently from the owners who had lived there for 30 years or more.

Redman said most plats contain restrictive covenants or restrictions pertaining to use of the property and it would seem that it might be more fair to have those restrictions removed prior to seeking a change in zoning. He said the residents would have a chance to express their opinion on that subject. Redman said the application here is for the highest commercial zoning available and almost anything can go into it. He said an application for a change to the Land Use Plan makes a request for a site plan and late in the afternoon before the LMAPC heard this request, the site plan was submitted, and it included 41 parking spaces; the McDonald's a block to the west has 53 parking spaces and uses the Holiday Inn parking lot as an overflow.

Redman said if the zoning is changed, the lot will be paved and it could have an effect on the drainage, which is becoming a problem now. He said it could have an effect on traffic; at the present time, traffic going west can cut across through the median to get to McDonald's but there will be no such traffic facility at this location and traffic would have to cross 38th Street.

Redman said there had been some indication that perhaps real property adjacent to major arterial streets should be changed to commercial use. He said 82nd Street is being widened and new homes were built adjacent to it and less than 50 feet from Cache Road. Redman said other arterial streets are Gore Boulevard, 38th Street, 52nd Street, 67th Street, and others, and most of the adjacent additions have plat restrictions. He urged that action be required to have plat restrictions lifted before zoning changes are made. Redman said Devine made a good point because if part of this property is zoned commercial, it will have a domino effect and decrease the value of the property surrounding the commercial property. He said the house at 38th and Cache Road has been consistently rented and is kept up well; the property owner has not sustained a loss although he purchased it on speculation of putting in a business but you also have to consider the long term residences in the neighborhood. Redman asked that Council recommend to the LMAPC that the Land Use Plan and zoning not be changed.

Purcell said Redman mentioned the plat restrictions and asked what happens if the change is approved and the owners then try to do something in court regarding violation of plat restrictions. Redman said it is the basis for a court action if there is an attempt to violate the plat restrictions. Purcell asked if that would be between the developers and owners of those two pieces of property and the citizens and Redman said yes.

Mike Gill, 3422 Cache Road, said this property should be evaluated on its own merits and the question tonight was the land use and not the actual zoning. He said this is a unique situation and location means everything in the business world, and that most people live where they want to live because of the location. Gill said his personal financial situation was boarder line desperate and he needed to sell his property, but when he goes to lending institutions, he is told no, the property should be commercial. He said a bank in Purcell, Oklahoma, sent a lady from their office here to look at his house and she said it needed to be commercial and they would not make a loan on it.

Gill said the property should probably be commercial and there is the I-Hop and Cache Road Square across the street and everything from 11th Street out to Goodyear on that side of the street is commercial except this one block, minus Wyatt Acres. He said some of these same residents will be back in a year or a few years asking Council to change the Land Use Plan and their zoning because they are going to retire and have to sell their property, or their heirs will have to sell their property, and the lending institutions will tell them it needs to be commercial. He said everyone seemed to agree that the change would come and it was just a matter of when. Gill said the homeowners had agreed to sell but it had become a matter of money, and change happens whether we like it or not, and that corner has changed because of traffic patterns and other things going on that the Council has no control over. He said the Land Use Plan can say one thing, but that does not keep an area from changing; the neighborhood has changed. Gill said one lady sold her house and that he had some compassion for the Santiago's who bought the house, and that he could not have conscientiously sold that house and not told them of the past zoning history behind it and they should have been made aware of it. Gill said there is one house in the area that is burned out and no one has said anything about the nasty, ugly burned out house across the street and no action has been taken on that.

Gill said he felt the impact of this change would be minor and that many residents are caught up in coming down and getting this rejected, regardless of who says what or the evidence, and it has become a personal thing and some reason needs to be applied. He said he felt the change would benefit many, and not just the few. Gill said the building and services that might go in on that corner would benefit many residents, and Lawton is a dynamic city, and in the model of dynamics, change is a necessity.

Norm Mayhue, Realtor, said he would like to clarify a point that was raised, which is that one of the houses in question did get a loan less than 12 months ago, for a significant amount of money. He said it is possible to get a loan or mortgage, and it was done through a local bank, Bank of Oklahoma. Mayhue said the value of the homes may be dependent on what goes in here, such as a bar or a restaurant, and it should be stressed that when we are talking about facts that we do get our facts straight. He said he supposed you could find a mortgage company that would refuse to make a loan, but it may not be because they were making a determination on commercial or residential use.

Mayor Powell said discussion had been received from both sides and asked the desire of the Council.

MOVED by Beller, SECOND by Williams, to recommend to the LMAPC that the request to amend the 2020 Land Use Plan from Residential-Single Family and Duplex to Commercial and Office located at 3422 and 3428 NW Cache Road be approved. AYE: Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: Smith. MOTION CARRIED. ADDENDUM ITEM 2. Receive a briefing regarding inspection of Lawton Public School facilities, to include the history, what has transpired to this point and a plan of action, and take any necessary action. Exhibits: Memorandum; Letter.

Williams said he asked that this be placed on the agenda and that a memorandum was attached, as well as a cover letter from the City Manager. He said there seems to be a situation where some deficiencies exist in some of the schools that he was not comfortable with and the parents who have children there may not be either, and that he was trying to get input from staff and see where we can go as far as a plan of action to make corrections of deficiencies in the buildings. Williams asked that staff provide an update.

Baker asked if the Fire Marshal should present a briefing. Shanklin said he had read it and did not need a briefing. Shanklin said the School Board knows its problems but it is short of money just like the City. Shanklin said he did not believe the item would have been placed on the agenda if Williams was not so adamantly against some of the issues on November 9 and this is not the time to give a black eye to an entity which has a \$80-\$90 million budget. Shanklin said he would make a motion that he did not need a briefing.

Williams said one of the reasons he asked for this item to be placed on the agenda was that he had visited with a sitting School Board member who remembered back two years ago that some deficiencies were identified at Central Junior High School and maybe one of the elementary schools, but that member was not aware of other deficiencies or the ones that exist today. He said that told him that maybe not all of this information was getting up to the School Board level and it was an opportunity to have some kind of a dialogue or opportunity to have a plan of action.

MOVED by Purcell, SECOND by Shanklin, to do what the City Manager suggested, that he contact Barry Beauchamp, set up a meeting to discuss deficiencies and bring it back to Council.

Mayor Powell said Mr. Braddy was at the podium. Bud Braddy, Superintendent of Schools, said if there was a question, he could have been called instead of the newspaper. He said the Fire Department was concerned about fire suppression systems but he could not find one in City Hall.

Baker said he has a meeting set up with Mr. Braddy and Mr. Beauchamp at 10 a.m. tomorrow and felt the issues could be resolved.

VOTE ON MOTION: AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Williams. NAY: None. ABSTAIN: Smith.
MOTION CARRIED.

Williams said he would like some closure after the meeting as far as firming up dates of actions.

Mayor Powell said he was President of the Board of Education of the Lawton Public Schools at the time the Fire Marshal determined there were deficiencies and that was discussed with the administration and the board at that time. He said dramatic changes were made before the end of the day at that time and that the City Manager and school personnel would discuss this.

UNFINISHED BUSINESS:

2. Consider the following damage claim recommended for denial: Anthony M. and Cola Jean Cominos. Exhibits: Claims Memorandum/Recommendation.

Vincent said the claim was the result of a sprinkler system which was broken during repair of a water main at 812 NW 50th Street. He said the City Code provides that there is no responsibility or liability on the City when making necessary repairs with regard to landscaping or other items in the easement, and he recommended denial of the claim.

Anthony Cominos distributed a copy of his claim form, as well as pictures, which he requested be returned to him. He said he was aware of the City Code and that it was also a double edged sword. Cominos said at the time damage occurred to his property, he was in Midwest City undergoing heart surgery; he came home a week or ten days later and found a gaping hole in front of his house. He said the City Code allows City employees to go into an easement or right of way, without regard for that property, to repair water mains that might break. Cominos said property owners like to have property that looks nice and enhances the appearance of the City. He said this is not a lot of money, it is \$63 to repair one pipe that was broken by a backhoe while digging up a sidewalk that was over that pipe in the area where this break occurred.

Cominos said the original damage to the water main was at 810 NW 50th, the house next to his on the south side by their driveway. He said he felt the water was turned back on and the force of pressure that came through the water line caused it to burst under the sidewalk. Cominos said he had marked, prior to leaving for Midwest City, the area where all of the lines were with paint, especially the area under the sidewalk, to show the sprinkler system. He said the ordinance only protects City employees from damaging property unless there is undue regard for what they do as far as damage goes, and that was evident. Cominos asked that Council look at the way his claim was written and at the pictures.

MOVED by Devine, SECOND by Shanklin, to approve the Cominos claim.

Shanklin said he felt Mr. Cominos was right and that he was fighting for the principle of it, not the \$63.

Purcell asked if the pipe that was damaged was in the easement or if it was on Mr. Cominos' property. Cominos said the City says the easement is where the water line is but he did not know if the water line was in the easement or on his property. Vincent said according to the report he received from the Public Works Department, the pipe was in the easement. Cominos said he talked to Mr. Graves who told him to file the claim.

Purcell said as soon as they start paying for claims for damage in the easement, there will be a real problem all over the City and he would hate to set such a precedent.

Cominos said his main point was that City employees have complete disregard for property improvements the owner has made, even if they are on the easement or right of way. He said the City repaired the sidewalk and if it is an easement, why did the City repair the sidewalk.

Beller asked if the line was marked. Cominos said yes, he marked the line with paint and the backhoe man who dug it up, as far as he was concerned, had total disregard for those markings. Cominos said he complimented the crew that repaired the property afterward.

Baker said he did not believe the City employees have total lack of regard for private property and that he needed to defend the Public Works employees and did not agree with that statement. He said the easements are intended for the utilities and it is very, very difficult to repair the lines without tearing up some property but he did not believe Mr. Cominos' statement was correct, based on his experience. Cominos said he was not saying there was total disregard, but they did not use proper care to be careful to not destroy any more than they had to.

Vincent said it was the position of his office that they do not deny claims just based on whether something is in an easement, although that is the generalization, but if a City employee had committed gross negligence, they would recommend payment of the claim. He said in the case of a line being on top of the City's main when we have to dig it out with a backhoe because of an emergency break, the recommendation would be for denial.

Beller asked if the City had paid claims such as this in the past. Vincent said if the Council believes the City was negligent, it would be justified in making a determination to approve payment. Vincent said he could not recall a claim being approved that obviously should not have been paid; there were always questions involved. Beller said he felt this would be a questionable situation. Vincent said it was an emergency situation with a broken water line and the sprinkler system pipe

was directly on top of the water main.

VOTE ON MOTION: AYE: Shanklin, Beller, Haywood, Smith, Devine. NAY: Purcell, Warren, Williams. MOTION CARRIED. ADDENDUM ITEM 1: Consider adopting an ordinance amending Sections 22-1-2-112 and 22-1-2-113, Chapter 22, Lawton City Code, 1995, and adopting a resolution amending Section 22-112, Appendix A, Schedule of Fees and Charges, to modify the rates charged for sale of water outside the City limits, and establish an effective date. Exhibits: Ordinance No. 99-____; Resolution No. 99-____; 10/13/99 Minutes from Outside Water Sales Committee.

Shanklin said about 15-16 months ago he brought this up before the Outside Water Sales Committee and at 7:30 that night he received a call from a developer wanting to know why he wanted to raise the rates. He said he wants to raise the rates because when he ran for Council last time, several persons told him they did not think it was fair for the City to sell water outside the City limits cheaper than inside. Shanklin said the impact to those outside the City would be that they would pay the same price for water as those who live inside the City.

Shanklin said we are embarking on a \$33 million ad valorem project for the water treatment plant expansion and making it EPA suitable, plus \$3 million for a Southeast water treatment plant study and probably some land acquisition; we are asking our citizens to make that sacrifice on their ad valorem and then keep selling our water for next to nothing out in the county. Shanklin said he had \$600 to \$700 per month income persons in his ward who did not feel they should subsidize a \$200,000 homeowner in the county and that he did not think so either.

Shanklin said he had heard the argument that the City did not furnish police and fire service outside the City but the City furnishes roads, infrastructure and lights when you come to town, as well as police and fire while you are in town; we transfer out of the Enterprise Fund \$8.2 million to the general budget, which is \$53 million, and you cannot say that \$8.2 million from the rates for water, sewer and solid waste pays for police and fire, so that means nothing. He said there is an allowance for industrial rates but there cannot be a difference in water charges according to the City Attorney's Office; we cannot give the low income a break because it is in the trust, so how can you sell it cheaper to the county. Shanklin said it should bring in some revenue and help pay for some of the items he just mentioned, and we are at odds with police and fire because we may not have the money to do it.

Shanklin said the staff has prepared the ordinance and resolution as to what the charges would be and he asked that they be adopted. He said there may be a bug or two in there and they can be worked out when they surface. Shanklin said there are certain members who are not helping with the ad valorem or CIP and that is their right, but there are some people who want very much to know whether we will charge outside people the same amount for water as they are having to pay.

MOVED by Shanklin, SECOND by Haywood, to adopt the ordinance in the packet and move on and straighten the bugs out as they appear.

Mayor Powell said this will be Ordinance No. 99-37 and Resolution No. 99-129.

Beller said he would like to make a substitute motion. He said Council was given this five minutes ago and is supposed to make an intelligent decision; it is an important piece of legislation and people know there is a need to increase the costs for water. Beller said it needs to be tabled and discussion should be held with those involved; the Outside Water Sales Committee should discuss it and the Chairman of that committee feels it should be returned to them for further discussion. Beller said the Chairman also said if the committee was not going to be used that it should be abolished because the purpose of the committee was to gather information and bring it to the Council. Beller said he was a fairly new member on that committee but liked to do things properly and be involved with the people it would effect.

SUBSTITUTE MOTION by Beller, SECOND by Williams, to table this and send it back to the Outside Water Sales Committee and let them bring back a recommendation to the Council. AYE: Beller, Smith, Williams. NAY: Shanklin, Haywood, Warren, Devine, Purcell. SUBSTITUTE MOTION FAILED.

Vincent suggested the word "production" be added to subparagraph b due to the potential for doing some work at the plant; if it says only conveyance, we would not be allowed to pass through some of the costs of improvements at the plant. He said it would then read "in addition to the fees set forth in the fee schedule, the City may include all reasonable additional costs attributable to the production and conveyance of treated water to the point of delivery to the purchasers water system".

Purcell said he agreed with what Shanklin was trying to do but he tried to read this last night and then spent an hour with the Finance and Planning Directors today trying to understand this. Vincent said there are private water associations/individuals, then quasi-public associations which are the rural water districts, and the municipalities. Purcell said he agreed that rural water associations and private water associations should pay the same as those in the City of Lawton, otherwise Lawton is subsidizing them. Purcell said he thought something different should be done when speaking of municipalities, and that Lawton should not lose money on them. He said he did not want to make a motion to table it because persons were present in the audience to speak, but would propose as a substitute motion later tonight to postpone action tonight and set up a special meeting for next week, quickly, for Council and the Outside Water Committee, which is basically Council members and Guy Rogers, Chairman, and work our way through it and come to an agreement on the rates. He said this should be the only item at that meeting.

Shanklin said the other municipalities have not had to pass bond issues or pay to operate water plants so they are getting

that ride free. He said his motion would be to include the one word change suggested by the City Attorney, and that a vote should be taken and it could be worked out. Shanklin said we should send a message that we are going to get parity on our water. Haywood said he would second the amendment to the motion offered by Shanklin.

Mayor Powell asked if Council was receptive to public comment, which was agreed to by Council.

Dan Eppler, Rural Water District 3 Chairman, said they provide service on the east side. He said they would like to be included in some of the discussions that might take place because there may be some extenuations or mitigation that they could present that might affect the decision making process.

The following comments are inserted verbatim for clarity:

Harold Wilson: Thank you Mr. Mayor and gentlemen of the Council. My name is Harold Wilson, I live at 15 Winding Creek Road in Pecan Valley development and I am the developer of Pecan Valley. I'm one of those that has on occasion talked with Councilman Shanklin about the way he goes about doing things. I want to go back and say to you all, as a citizen of the community for almost 79 years that I think I know what Lawton's needs are as much as anybody else and have worked along in the City government and also on the water committee, the outside water committee, I was also working on it when we got the Waurika water.

I would like to bring up that nine and half years ago we started a development at Pecan Valley on two deep wells and five shallow wells that together produced 350,000 gallons of water a day. The water was acceptable (inaudible) and four and a half years ago a couple of councilmen from the City of Lawton called me and asked if I would meet with them because they had been talking to the Department of Environmental Quality or the Health Department about the water situation and would I come and meet with them and make an application to receive water from Lawton because Lawton so direly needed the income that they wanted to get that started and if I would do that and make that application and then they could get the rural water areas, such as you just heard here from part three (inaudible). I want to say to you that in the last two months Pecan Valley development has sent the City of Lawton a check for more than \$24,000 for water. That's a pretty good salary for some of you councilmen if you can get a raise up to that point, \$24,000 every two months but you see the point is that we're making is what do we do in the future and what do we do with the people we're going to step on in the mean time and push and shove as to what this situation is going to be. Personally, I believe that I have heard for the last 30 years that we need to get Waurika's water up here, we need to build a plant for that water to be made usable, we need to sell water to every community, to everybody in Southwest Oklahoma, that will buy it.

I can sit here that I formed a committee over 25 years ago that that would entail to you all a million dollars a year in income on surplus water. Now, Mr. Shanklin's figures are dead wrong if he says we're not paying as much as you're paying here if you take all the things that are involved. First of all, the City of Lawton does not read but two meters at Pecan Valley and that's two big meters that the City comes out and reads to send us a bill. We read all the rest of the meters, we have to have books as well as you do, and I've asked in here a dozen times, what does it cost the City of Lawton to go out and read each meter that you read and bill people for and I have been given these answers, from \$5.50 to \$8 per meter, that's just the cost of going to read them. We have no police protection, we have no fire protection, in fact, we pay more to take anything in to the dump than anybody else, and all these things that come. Now, Mr. Shanklin is not a very good appraiser either, there's just not a lot of \$200,000 houses out in Pecan Valley, in fact, we've got a bunch of \$75,000 houses on the south side too, most of those people down there work at Goodyear, they wanted to be closer to Goodyear, it was a real good thing for them but we pay, so that you know the facts, \$1.64 approximately per thousand gallons of water. We read the meters without any services from the City of Lawton and we think that you should have a rate for water. There's nothing wrong with that. We're not talking about that, but for us to keep your books and do the other things that you want done is completely out of order.

Let me go back to this suggestion. We have Cache and Indianoma that are boiling water every year. We have Geronimo that's been in that situation. We have cities around us in Elgin and Fletcher that have been in that situation. We have communities of Chattanooga and Faxon that's been in that situation. We have enough people out there needing water because the DEQ wants them to be off their wells as quickly as they can, and finally you're going to get laws from the State of Oklahoma governing what you can do to rural water associations and it's in the process right now that you don't just come up and slap them around when you get ready, and I think everybody in this room from all the other districts know that Lawton's got a lot more money that needs to be spent, that there's going to be some increase in water rates, that doesn't sound too ridiculous, but it sounds ridiculous that somebody wants to get a vendetta in there bugged up life of some kind that they're trying to get even with somebody and that they're going to go out here and put on \$7.50 up front, then raise the water rate and tell us what we're going to do, I want to know what you're going to do when these people decide they don't need to trade in here. We pay the eight and a half percent tax just like everybody else but we have a problem dealing with the people to tell them what they're going to have to pay and I know the rural water associations I've talked to have the very same problem. They simply like to be considered as human beings and that we sit down and that we work out some solution to pay our way, we're not asking it not to be paid, that would not be right.

This City, and I've been around here for 30 years, will never be the city that it has to be and the income that it needs from the sale of water until we get busy and bring Waurika's water to bear in this community where we have all this water to sell to this entire circle out here and if you sit down and figure it out you will find that it will be more than the \$1,140,000 you pay every year for Waurika which is ridiculous and not use it. We are going to have to wake up some day and I hope this (inaudible) we're going to have to wake up some day at what does it take to make a society where people are friends, the people in the outside communities that don't live in Lawton would be just as proud of that as you are. Lawton's been

my home town for almost 79 years, Bob, and I don't have a thing against Lawton and I don't have a thing against Lawton raising the water rates.

Shanklin: Well, you did have, you mentioned my name now two or three times. You did have a vendetta against Lawton, did you not?

Wilson: I came and asked because some city councilmen asked me to apply for this water. The chairman of that was another city councilman, Dick Zarle, came and talked to me and asked me if I would make that because they felt that the community could make that much more income out of pure surface water to get income into the City's coffers. Now, I didn't need the water, I didn't need it. I spent \$96,000 to bring that water a half a mile to those meters, I've since had to spend to take it to the rest of it to a total of \$260,000 for lines that we paid for simply to accommodate what we were asked to do. Those city councilmen thought they were getting something started that might have wakened Lawton's spirit to get the Waurika water up here where we could use it, it's here, it's right on the Southeast corner, the pipe is there, and we haven't done a very good sales job until we do this and sell water to all the neighbors around here. I would like to see Cache have it and Walters and Geronimo and (inaudible) and Faxon and Chattanooga and all the rural water districts. I think we ought to be a community that reaches out here for 50 miles and not get our little circle around here that we're pet peeved with and try to punish somebody because we don't like what they have done.

Mayor: Thank you, Mr. Wilson." (end verbatim portion)

SUBSTITUTE MOTION by Purcell, to table this item until Monday night at 5 p.m. where we come in and discuss this and we'd invite all the people back, that will give them time to do whatever they need to do and give us time to read this, and we make a decision on Monday night, that's the purpose of tabling it until Monday night, so my motion is to table this, come back Monday night, special Council meeting, this item only.

Devine asked that the meeting be held at 6 p.m. and Purcell amended his motion to reflect 6 p.m. Devine seconded the motion at that time.

Shanklin said he wanted Mr. Wilson there and wanted him to tell us how we are going to expand our plant when it's costing \$33 million just to do what we're doing now, and tell us where we're going to get that money and are we still going to put it on the little old lady down here on the south side that has a \$600 per month income, are we going to put it on her ad valorem.

VOTE ON MOTION: AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin. NAY: Beller. SUBSTITUTE MOTION CARRIED.

Mayor Powell said this item is tabled until 6:00 p.m. Monday, November 1, and everybody heard it.

The Mayor and Council recessed at 8:00 p.m. and reconvened at 8:10 p.m. with roll call reflecting all members present.

6. Receive a presentation regarding establishing a Vietnam Memorial and take appropriate action. Exhibits: 10/13/98 Council Minutes Excerpt.

Smith said persons were present to make a presentation and that information had been provided in a packet to Council.

Aaron Boone, Chairman of the Monument Committee for the Vietnam Veterans' Chapter, said a presentation was made to Council about a year ago and copies of the drawing of the proposed monument were provided to Council. He said the group was seeking approval of the proposed site which they recommended as the triangle on the lawn south of the Museum of the Great Plains.

Williams asked if funding had been secured. Boone said no, they are receiving public donations and will be selling bricks to raise funds. Mayor Powell said he hoped Council could see the final plans and Boone said a target date was July 4, 2000. Baker suggested the Parks & Recreation Commission and Museum Authority be asked to review the request and provide input to Council.

MOVED by Smith, SECOND by Purcell, that Council give this its full blessing for the project and send it to the Parks & Recreation Commission for a site recommendation.

Warren asked if this meant Council was not voting on the actual site. Smith said the intent of the motion is to show that Council wants the project to be done and wants the recommendation of the Parks & Recreation Commission on the site and Council would then act on that recommendation.

Shanklin said the group had selected the site and that he was ready to vote on it now. Beller said we have members present from the Parks & Recreation Commission tonight and asked if they had a comment.

Mr. Hall, Parks & Recreation Commission Chairman, said he had not heard about this project before and that the Commission was looking into a master plan for Elmer Thomas Park and would like to see how this could fit into that plan. Time frame for that review was discussed.

SUBSTITUTE MOTION by Shanklin, SECOND by Beller, to approve the spot they picked out on the south side of the

Museum.

Williams said he would like the Parks & Recreation Commission to look at it and that the Museum Authority had provided the Parks & Recreation Commission a master plan of its request, including moving the boundaries on all four sides for the museum and it would include this area. He said the boards in place should be used. After further discussion, the substitute motion and second were withdrawn. Shanklin said he would not withdraw his motion if it could not be done in a timely manner.

Original motion by Smith was amended for the Parks & Recreation Commission recommendation to be brought back to the last Council meeting in November. Boone indicated it would not be a hardship to wait until the later part of November for a decision.

Smith said the veterans group would be notified of the date and time of the Parks & Recreation Commission meeting to consider this subject. Williams said the last Council meeting in November will be November 23rd.

VOTE ON ORIGINAL MOTION AS AMENDED: AYE: Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

7. Discuss water lines located along Flower Mound Road south of Lee Boulevard to Bishop Road and take appropriate action as necessary. Exhibits: Memorandum with Attachments.

Vincent said Council requested a report from the City Attorney's Office and a report was included with the agenda packet. He said he discussed this with Jerry Cude, Assistant District Attorney, and Cude's only objection was they did not specifically name the engineer as also a responsible party. Vincent said the City's engineering staff reviewed Part A of the contract, which was the area from Lee to Bishop Road. He said we did receive the engineering data provided by the consulting engineer, and he discussed that with Ihler this afternoon. Vincent said Ihler's comment was that the consulting engineer's drawing reflects that no water lines needed to be replaced or relocated as part of the construction. He said the County also wants to work with us to solve this problem.

Purcell asked if we are saying it is the County's responsibility since the City only provided funding. Vincent said the County and the consulting engineer. Purcell said he had a practical question, what are they going to do and who is responsible for burying the two inch line that has been exposed, and secondly, if we must trench to re-bury the two inch line, can we give some thought to putting in a larger line, although perhaps not a 12" pipe. Purcell said it made no sense to trench for one mile to re-bury an old, two inch line. Vincent said Cude felt it would be necessary for the City and County to take an active role in solving the problem and the City and County will seek redress with the consulting engineer. Vincent said the second part, as to how we want to relay the line, is up to the Council. Shanklin asked the costs involved to get the people back to where they were.

Gail Turner, Eastern District County Commissioner, said to re-lay the two inch line for one mile would cost approximately \$6,000. Vincent said Mr. Cude indicated there was a problem south of Bishop and Turner said the County had taken care of the line under their road and trenched a new line to the south.

Purcell said he understood from previous discussion that if the City would provide the water line, something bigger than a two inch line, that the citizens would do the installation on a sort of cost sharing basis. Purcell said the citizens or someone would make the trench and the City would provide the one mile of pipe and the City would relocate the water meter where it belongs on Bishop. Purcell said he knew the pipe size would not be up to code because it is a section line road where normally 12 inch lines are installed, and asked if something such as this could be worked out.

Haywood asked why a 12" line would not be installed and Shanklin said it was not necessary to put in a 12". Haywood said some thought should be given toward the future. Williams asked if a water district such as this could obtain some type of financing to help with associated costs and Vincent said he would have to look into it.

Purcell said he wanted to make a motion but needed help from Ihler to do so; he said something has to be done tonight, otherwise the water line will be freezing. He asked Ihler if we could put in a four or six inch line to solve this problem in the interim as opposed to a 12" line. Purcell said he wanted to make a motion to say the City would pay for the pipe as long as the people make the trench for an X inch line for the one mile between Lee and Bishop, but he did not know what to include in the motion in terms of the pipe size.

Ihler said if you are talking about a six inch pipe, it would not be a trencher for the digging. Purcell asked what size pipe to put in for the motion. Shanklin asked who would use a six inch pipe. Purcell said the citizens in the City of Lawton that live out there in that one mile where we have never put water in and provided water to them since we annexed them. Purcell said he was not worried about what was located south of Bishop Road but was worried about what was in the City limits, the City of Lawton citizens who were annexed.

Ihler said he felt the line should at least meet the minimum requirements of DE and a six inch water line would probably do so; it is a large extension of line that is basically a dead end line and the code would require eight or ten inch, so at a minimum, you would want a six inch line.

MOVED by Purcell, SECOND by Shanklin, that the City of Lawton provide six inch water pipe, one mile of it, to provide the

materials for the six inch pipe, provided someone will, whether the county or citizens or district, will make the trench to put it in, and the City will provide the materials for the six inch pipe and move the water meter from Lee to Bishop Road, and allow the City Attorney to work with the District Attorney's Office to seek any recovery possible.

Shanklin asked Turner if he lived in the City limits and Turner said yes. Purcell said he was trying to get the pipe in before freezing weather and they could worry about the rest later.

Ihler said several home owners will have to be tapped into the line and there could be associated plumbing costs; there is a two inch line on the east side for a mile, and a line on the west side that crosses to the east to serve Ocasio. He said he got a letter from the contractor saying we have 200 feet of line that needs to be lowered and 300 feet on the west side that needs to be lowered. Purcell said it would be their responsibility to tap into it once it is done, the City is not responsible to tap, and it is a city line; those people would not be in that water association any more, they are citizens; they pay City bills and the association would pay the bill for the amount they use. Shanklin said the residents would not want anyone else tapping onto their line and Purcell said it is not a water association any more, they are citizens.

Vincent said it will be a dedicated city line, the six inch line, and the taps would be city taps and city meters after that, and the existing lines should be abandoned. He said for the gentleman on the west side of the street, he would suggest a tap be made for him off of the six inch line and abandon the other line. Turner said it makes much more sense to run one, six inch line and do away with the others. He said the master meter should be at the end of Bishop Road for the 2-3 people outside the City limits on the association, but the rest are in the City limits.

Shanklin asked Ihler if he needed to know where the funding would come from. Ihler said we will need to see if we have right of way. Vincent asked if the residents would be willing to donate right of way if it is needed. Shanklin suggested it be tabled to work out such questions and Purcell said it cannot be tabled because it would freeze as some of the pipe is above ground. Turner said they would work through the easement problems.

VOTE ON MOTION: AYE: Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

8. Discuss on-premises restaurant liquor license on City lake property leased to concessionaires, and provide guidance to staff. Exhibits: None.

Jerry Ihler said at the October 6 Lake & Land Commission meeting, the Commission unanimously asked that the City Council consider directing staff to prepare documents to allow on-premises liquor licenses at Lakes Ellsworth and Lawtonka for the concessionnaires. He asked that King Wiggins, Lake & Land Commission, address the issue further.

Wiggins said the Commission voted to bring this to the Council as it would generate income; each concessionnaire contributes to the City coffers through their percentages earned. He said it would enhance the recreation and the area if restaurants were built at the marinas, so if a concessionnaire wished to build a restaurant in their location, it would be allowed for them to apply for a restaurant liquor license, which is on-premises and cannot be taken outside of the restaurant.

Wiggins said they discussed this with law enforcement before making the recommendation and Lt. DeBoard, who is over the lakes and lands area, and he had no problem with it. He said he felt it would increase revenues and enhance recreation for the citizens, and the proposal would apply to all concessions at both lakes.

Vincent said this would require a very minor change to Chapter 4 of the City Code. He said ABLE licenses would be required also, and State law was changed on how the 500 feet is measured between schools, day care centers and churches as far as the licensing; it is no longer from the building but from the property line. Vincent said they were not going out to see what was available in that regard. Shanklin asked if it would be measured as the crow flies. Vincent said it would be 500 feet as you would walk, or the normal course of travel.

Devine said he did not really think this would be a good idea and did not feel liquor needed to be sold at the lakes. He said there are enough problems now with people on jet skis and drinking and bringing their own beer and if we start selling alcohol, it would encourage people to drink.

Shanklin said it would be in the restaurant and not outside and he had no problem with that. He said the problem he saw was that the concessionnaires should have to patrol their own concessions and he did not see the taxpayers having to pay to furnish police to the leased area. Shanklin said he thought the concessions should provide their own security and if the City still had to provide the security, he would not be in favor of this proposition either.

Williams said there are a lot of people out there on the weekends and this could limit people from bringing their own spirits out there, and they could have a cocktail in the restaurant and not be able to take it with them, so he would support this.

Haywood said he did not drink and he was against this.

Beller said we sell beer out there and you can get just as enebriated on beer as you can liquor. He said they would have to meet all of the State requirements as far as the ABLE laws are concerned and if they build a nice restaurant and it is

served in a restaurant atmosphere, it is something we could use. Beller said people will drink regardless and we cannot control the morals of the citizens. Shanklin said at least it would be controlled. Shanklin asked if anyone shared his thoughts on providing security. Williams said it is City property and the security is for the people who go out there. Shanklin said he was talking about the concession areas and we did not need to be there looking at the girls on the concession areas. Shanklin asked if anyone had thought about what that costs the City and that he could look it up but thought it was about \$300,000 that we pay for the security, and that those amounts are not spent at Lake Thunderbird in Norman.

Purcell said people bring beer on their own and they can go in the concessions and buy beer. He said this would be in a restaurant, and he would like to say to do away with all of it, but that is not going to happen, so he had no problem supporting this if it would bring some people out to a nice restaurant.

MOVED by Beller, SECOND by Smith, to ask staff to prepare an item with an ordinance that would revise City Code to allow on-premises restaurant liquor license on City owned property leased by the Lawton Water Authority and sub-leased by various concessionaires that will meet all State ABLE requirements. AYE: Williams, Purcell, Beller, Haywood, Warren, Smith. NAY: Devine, Shanklin. MOTION CARRIED.

UNFINISHED BUSINESS ITEM #1: Hear appeal of Donald E. Gaskins of the Building Development Appeal Board. Exhibits: None. (Information provided previously)

Warren said Gaskins, his attorney, the City Attorney's office, and the residents are still trying to get together.

MOVED by Warren, SECOND by Beller, to table this until the second meeting in November. AYE: Devine, Purcell, Beller, Haywood, Warren, Williams. NAY: Shanklin, Smith. MOTION CARRIED.

UNFINISHED BUSINESS ITEM #3: Consider the following damage claim recommended for denial: Don and Carol Hathaway. Exhibits: Claims Memorandum/Recommendation; Supplemental Claims Memorandum/Recommendation.

Vincent said the item was tabled from the last meeting to look into an issue involving sod on projects involving the City replacing water lines and sewer lines. He said there was discussion that it is done in some cases and not in others and the City Manager was asked to provide a report, which is in the agenda packet. Vincent said he continued to recommend denial of this claim.

Mayor Powell said he was on the sight of this work and that the line had broken at least three times, if not five. He said some pictures of the lawn were provided but they were taken on the corner where it was very, very level. Mayor Powell presented pictures and said he had measured from the curb or sidewalk to the fence itself and it was 15 feet; there was 24 inches of slope in that 15 feet, and it was impossible to keep seed on an area like that so sodding was the only way to cure it.

Shanklin said the bill was \$15 for the sprinkler system and \$500 for sod. He said he had been out there twice and what brought this about was when they replaced the line across the street, they did re-sod it and did not re-sod this one and it was about 170 feet. Shanklin said if you are going to re-sod one, you have to do the other.

Warren said the City has a policy to not re-sod when we do spot repairs. He said the contract the City let to have segments of line replaced includes the sodding as part of the contract. Warren said if Council wanted to change that policy, that was fine, but the City Manager provided the report showing what the cost will be to do that because we cannot do it just for this gentleman but would have to do it for everyone, and some thought needed to be given to that. Mayor Powell said he did not feel this was a spot repair and Shanklin said it was 170 feet. Shanklin said the citizens are not the enemy.

Smith said the part that confused him was the City provided sod across the street but would not do so for this lot and it is referred to as a spot repair but it was the whole length. He said he did not understand why this man would be denied the same thing provided to the neighbor.

MOVED by Shanklin, SECOND by Haywood, to approve this claim in the amount of \$500, and adopt the resolution. AYE: Purcell, Shanklin, Beller, Haywood, Smith, Devine. NAY: Warren, Williams. MOTION CARRIED.

(Title only) Resolution No. 99-129

A resolution authorizing and directing the City Attorney to assist Don and Carol Hathaway in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Five Hundred and No/100 Dollars (\$500.00).

ADDENDUM BUSINESS ITEM #3: Consider approval of a Memorandum of Agreement between the City of Lawton and Lawton Out Reach, Inc. concerning the proposed "Weed & Seed" program and authorize the Mayor to sign a formal letter of support for the "Weed & Seed" initiative. Exhibits: Draft Letter of Support.

Baker said we are asking the Council to approve a Memorandum of Agreement with Lawton Out Reach and Ms. Pat Paige is the director of that. He said Ms. Paige and a large task force are preparing an application for Weed & Seed designation and requesting federal funds. Baker said the Memorandum of Agreement states that the City will cooperate in that project and continue to provide police services in the area as we are now doing, and if they receive funds for overtime, we would

make that overtime available to our police officers. Baker said the other portion is authorizing the Mayor to sign a formal letter of support for the Weed & Seed application, and none of this will go into effect until the federal government does approve the request and designates Lawton as a Weed & Seed site.

Smith said this is coming along very well and has already had a positive effect on the neighborhood.

MOVED by Smith, SECOND by Haywood, to approve the item. AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine, Purcell. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

9. Consider the following damage claim recommended for denial: Judy Kinder. Exhibits: Legal Opinion/Recommendation. Action: Denial of claim.

10. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file friendly suits for claims which are over \$400.00: Maude Bruner, Daryl and Sherry Jaschen, James Johnson and Southwestern Bell Telephone. Exhibits: Legal Opinions/Recommendations. Action: Approval of claims. Bruner: \$271.00; James Johnson: \$67.50; Southwestern Bell Telephone Company: \$382.36.

(Title only) Resolution No. 99-130

A resolution authorizing and directing the City Attorney to assist Daryl and Sherry Jaschen in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Five Hundred Forty-Four and 40/100 Dollars (\$544.40).

11. Consider approval of Intergovernmental Agreement for Public Safety Services between the City of Lawton and Fort Sill. Exhibits: Proposed Agreement. Action: Authorize the Mayor and City Clerk to execute the intergovernmental agreement. (Increases number of Fort Sill personnel provided to Lawton's E911 Dispatch from three to five)

12. Consider approval of the costs of demolition on the following properties, which were condemned and demolished by the City: 316 SW Washington, 1108 SW "J" Avenue. Exhibits: Notice of Amount of Cost for each property. Action: Approval of item.

13. Consider authorizing the Mayor to vote for the approval of a proposed by-law change of the Oklahoma Municipal League by-laws, Article V, Board of Directors. Exhibits: None. (Copy of OML's current by-laws on file in City Clerk's Office) Action: Approval of item.

14. Consider approving and authorizing execution of a contract with Edward Tahah for Contract Inspection Services for the Sewer System Rehabilitation Program. Exhibits: None. (Proposed agreement on file in Public Works Admin) Action: Approve and authorize execution of contract. Price is \$4,400 per month. Note: This item was not pulled but Shanklin asked if this person was a City employee and response was that he was a former City employee.

15. Consider accepting the Wastewater Treatment Plant Expansion Project 97-2 as constructed by Cajun Contractors, approving Change Order Number 5 and placing the Maintenance Bond into effect. Exhibits: None. (Change Order Number 5 on file in Public Works Admin). Action: Accept the Wastewater Treatment Plant Expansion Project 97-2 as constructed by Cajun Contractors, approve Change Order Number 5 in the amount of \$22,052.02 and place the Maintenance Bond into effect.

16. Consider awarding a construction contract to Karn's Construction, L.L.C. for the Highland Cemetery Fencing Project #99-23. Exhibits: Location Map; Bid Tab. Action: Award contract in the amount of \$25,250.00.

17. Consider authorizing the Mayor and City Clerk to execute a lease agreement with Jay Davis to store City vehicles in an enclosed facility. Exhibits: None. (Commercial sublease on file in City Clerk's Office) Action: Approval of item. \$750 per month for four months for heated storage of vehicles.

18. Consider ratifying the action of the Lawton Water Authority in extending the concession lease with Ralph's Resort. Exhibits: None. Action: Ratify action of Lawton Water Authority to extend lease.

19. Consider ratifying the action of the Lawton Water Authority in extending the concession lease with Robinson's Landing. Exhibits: None. Action: Ratify action of Lawton Water Authority to extend lease.

20. Consider authorizing the Mayor and City Clerk to execute such documents as necessary to release a Uniform Commercial Code (U.C.C.) lien filing executed in accordance with a small business revolving loan made by the Housing and Community Development Department to Mr. Carl Dale Eubanks d/b/a Dale's Tractor Service. Exhibits: UCC. Action: Approval of item.

21. Consider approving the following contract extension: A) Pest Control Services with Environmental Pest Control. Exhibits: None. Action: Approval of contract extension.

22. Consider awarding contract for Packer Bodies and Reeve Truck. Exhibits: Recommendation; Bid Abstract. Action:

Award contract to J & R Equipment Co. (Item #1 and trade-in offers toward packer bodies); and Waste Research, Inc. (Item #2 and trade-in offers toward truck with roll-on/off hoist), and authorize execution of contracts.

23. Consider awarding contract for Inert Fill. Exhibits: Recommendation; Bid Abstract. Action: Award contract to Lawton Transit Mix, Inc. and authorize execution of contract.

24. Consider awarding contract for Pipe and Fittings. Exhibits: Recommendation; Abstract. Action: Award contract to Midstate Utility Supply and authorize execution of contract.

25. Consider approval of appointments to boards and commissions. Exhibits: Memorandum Commission on Status of Women: Ernestine Hightower, Ward 2, Term: 10/26/99-10/26/2001; Andrea Quisenberry, Ward 2, Term: 10/26/99-4/13/2000; Darlene Williams, Ward 7, Term: 10/26/99-1/23/2000; Lawton Housing Authority: Eileen Mercadante, Term: 11/13/99-11/13/2002

26. Consider approval of payroll for the period of October 18 through 31, 1999. Exhibits: None.

MOVED by Smith, SECOND by Warren, for approval of the Consent Agenda items as recommended. AYE: Beller, Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Beller said the Airport Authority would like to have a joint meeting with the City Council and Chamber of Commerce on November 3 at 10 a.m. He said the purpose is to show what is necessary to bring an economic development project to the Airport for the Metro Airlines maintenance facility. Beller said some of the members have been working on the figures and help and input are desperately needed. He asked that those who could to please try to attend and it will be at the maintenance facility at the Airport.

Williams invited everyone to attend the Pancakes Day at the Coliseum on Monday, November 1, sponsored by the AMBUCS group.

Mayor Powell asked Council wishes as far as December meeting dates. Consensus was the dates for Council meetings be December 7 and December 14; there will be no regular meeting on December 28.

Mayor Powell encouraged participation in Red Ribbon Week.

BUSINESS ITEM:

27. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of George E. Dailey against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

28. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled City of Lawton v. IUPA, Local 24, and Damion Sean Hart, Case No. CJ-99-1081, filed in the District Court of Comanche County, and take appropriate action in open session. Exhibits: None.

29. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the negotiations for an Employment Agreement for FY 1999-2000 between IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

ADDENDUM ITEM #4: Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled City of Lawton v. MEGA Life & Health Ins., Case No. CJ-98-515, filed in the District Court of Comanche County, and take appropriate action in open session. Exhibits: None.

MOVED by Warren, SECOND by Williams, to convene in executive session as shown on the agenda and recommended by the legal staff. AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 9:05 p.m. and reconvened in regular, open session at approximately 9:25 p.m. with roll call reflecting all members present.

Vincent said Item 27, claim of George E. Dailey against the City of Lawton, was discussed; Council was briefed on the claim and no action is required or requested by the City Attorney's office.

Vincent said Item 28, City of Lawton vs. IUPA, Local 24, and Damion Sean Hart, Case CJ-99-1081, Council was briefed on the status of that case and no action is required.

Vincent said the next item was the current status of negotiations for an employment agreement for FY 1999-2000 between the IUPA, Local 24, and the City of Lawton, and to take appropriate action. He said the City Attorney's office recommends a motion to re-enter negotiations with IUPA, Local 24.

MOVED by Smith, SECOND by Williams, to re-enter negotiations with IUPA, Local 24. AYE: Smith, Williams, Devine,

Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

Vincent said the last item, which was on the addendum, was to discuss the status of City of Lawton vs. MEGA Life and Health Insurance, Case CJ-98-515, and no action is required in open session. This concluded the City Attorney's report.

Mayor Powell said he was extremely proud of the Council tonight because the plate was full and he came to the meeting with a lot of apprehension, but it was a good Council meeting and he commended Council in that regard.

There being no further business to consider, the meeting adjourned upon motion, second and roll call vote at 9:27 p.m.